

AMENDED IN ASSEMBLY APRIL 21, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 951

Introduced by Assembly Member Lieu

February 26, 2009

An act to amend Sections 5378, 5378.5, 5411, 5411.3, 5412, 5412.2, 5413, 5413.5, and 5414 of the Public Utilities Code, relating to charter-party carriers.

LEGISLATIVE COUNSEL'S DIGEST

AB 951, as amended, Lieu. Charter-party carriers.

The Passenger Charter-Party Carriers' Act, with certain exceptions, prohibits a charter-party carrier of passengers from engaging in transportation services subject to regulation by the Public Utilities Commission without obtaining a specified certificate or permit, as appropriate, from the commission. The act imposes a maximum fine of not more than \$1,000 in its general penalty provision for any violation or failure to comply with the act, an order or other requirement of the commission, or an operating permit or certificate, or aiding and abetting such a violation. The act also imposes maximum fines, and in certain cases, minimum fines for specific violations of the act, including, for *conviction of* operating a charter-party carrier of passengers or a taxicab without a valid certificate or permit, a maximum mandatory fine of \$2,500 for a first conviction, or \$5,000 for a subsequent conviction.

This bill would revise that general penalty to set a minimum fine of \$1,000 and a maximum fine of \$5,000. The bill, for *conviction of* operating a charter-party carrier of passengers or a taxicab without a valid certificate, would ~~set a minimum fine of \$1,500 and a maximum fine of \$5,000 for a first conviction, or \$1000,000 for a subsequent~~

~~conviction~~ increase mandatory fines for charter-party carriers of passengers, subjecting them to a maximum fine of \$10,000 for a first conviction and \$25,000 for a subsequent conviction. The bill would also increase a number of other existing fees, fines, and penalties for specific violations of the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5378 of the Public Utilities Code is
2 amended to read:

3 5378. (a) The commission may cancel, revoke, or suspend any
4 operating permit or certificate issued pursuant to this chapter upon
5 any of the following grounds:

6 (1) The violation of any of the provisions of this chapter, or of
7 any operating permit or certificate issued thereunder.

8 (2) The violation of any order, decision, rule, regulation,
9 direction, demand, or requirement established by the commission
10 pursuant to this chapter.

11 (3) The conviction of the charter-party carrier of passengers of
12 any misdemeanor under this chapter while holding operating
13 authority issued by the commission or the conviction of the carrier
14 or its officers of a felony while holding operating authority issued
15 by the commission, limited to robbery, burglary, larceny, fraud,
16 or intentional dishonesty for personal gain.

17 (4) The rendition of a judgment against the charter-party carrier
18 of passengers for any penalty imposed under this chapter.

19 (5) The failure of a charter-party carrier of passengers to pay
20 any fee imposed upon the carrier within the time required by law.

21 (6) On request of the holder of the permit or certificate.

22 (7) Failure of a permit or certificate holder to operate and
23 perform reasonable service. That failure may include repeated
24 violations of the Vehicle Code or of regulations contained in Title
25 13 of the California Code of Regulations relative to motor vehicle
26 safety, by employees of the permitholder or certificate holder, that
27 support an inference of unsafe operation or willful neglect of the
28 public safety by the permitholder or certificate holder.

29 (8) Consistent failure of the charter-party carrier of passengers
30 to maintain its vehicles in a safe operating condition and in

1 compliance with the Vehicle Code and with regulations contained
2 in Title 13 of the California Code of Regulations relative to motor
3 vehicle safety, as shown by the records of the commission, the
4 Department of Motor Vehicles, the Department of the California
5 Highway Patrol, or the carrier.

6 (9) The knowing and willful filing of a false report that
7 understates revenues and fees.

8 (b) The commission may levy a civil penalty of up to ~~one~~
9 ~~hundred thousand dollars (\$100,000)~~ *seven thousand five hundred*
10 *dollars (\$7,500)* upon the holder of an operating permit or
11 certificate issued pursuant to this chapter, for any of the grounds
12 specified in subdivision (a), as an alternative to canceling, revoking,
13 or suspending the permit or certificate. The commission may also
14 levy interest upon the civil penalty, which shall be calculated as
15 of the date on which the civil penalty is unpaid and delinquent.
16 The commission shall deposit at least monthly all civil penalties
17 and interest collected pursuant to this section into the General
18 Fund.

19 SEC. 2. Section 5378.5 of the Public Utilities Code is amended
20 to read:

21 5378.5. (a) Upon receipt of a written recommendation from
22 the Department of the California Highway Patrol that the certificate
23 or permit of a charter-party carrier be suspended either (1) for
24 failure to maintain any vehicle used in transportation for
25 compensation in a safe operating condition or to comply with the
26 Vehicle Code or with regulations contained in Title 13 of the
27 California Code of Regulations relative to motor carrier safety if
28 that failure is either a consistent failure or presents an imminent
29 danger to public safety, or (2) for failure to enroll all drivers in the
30 pull notice system as required by Section 1808.1 of the Vehicle
31 Code, the commission shall, pending a hearing in the matter
32 pursuant to subdivision (d), suspend the carrier's certificate or
33 permit. The written recommendation shall specifically indicate
34 compliance with subdivision (c).

35 (b) A carrier whose certificate or permit is suspended pursuant
36 to subdivision (a) may obtain a reinspection of its terminal and
37 vehicles by the department, by submitting a written request for
38 reinstatement to the commission and paying a reinstatement fee
39 ~~of two hundred fifty dollars (\$250)~~ *of one thousand dollars*
40 *(\$1,000)*. The commission shall deposit all reinstatement fees

1 collected pursuant to this subdivision in the Public Utilities
2 Commission Transportation Reimbursement Account. The
3 commission shall then forward a request for reinspection to the
4 department which shall then perform a reinspection within a
5 reasonable time. The commission shall reinstate a carrier's
6 certificate or permit suspended under subdivision (a) promptly
7 upon receipt of a written recommendation from the department
8 that the carrier's safety compliance has improved to the satisfaction
9 of the department, unless the certificate or permit is suspended for
10 another reason, or has been revoked.

11 (c) Before transmitting a recommendation pursuant to
12 subdivision (a) to the commission, the Department of the California
13 Highway Patrol shall notify the charter-party carrier in writing of
14 all of the following:

15 (1) That the department has determined that the carrier's safety
16 record is unsatisfactory, furnishing a copy of any documentation
17 or summary of any other evidence supporting the determination.

18 (2) That the determination may result in suspension or
19 revocation of the carrier's certificate or permit by the commission.

20 (3) That the carrier may request a review of the determination
21 by the department within five days of its receipt of the notice
22 required under this subdivision. If a review pursuant to this
23 paragraph is requested by the carrier, the department shall conduct
24 and evaluate that review prior to transmitting any notification to
25 the commission pursuant to subdivision (a).

26 (d) Whenever the commission suspends the certificate or permit
27 of any charter-party carrier pursuant to subdivision (a), the
28 commission shall furnish the carrier written notice of the
29 suspension and shall hold a hearing within a reasonable time, not
30 to exceed 21 days, after a written request therefor is filed with the
31 commission, with a copy thereof furnished to the Department of
32 the California Highway Patrol. At the hearing, the carrier shall
33 show cause why the suspension should not be continued. At the
34 conclusion of the hearing, the commission may, in addition to any
35 other penalty provided in this chapter, terminate the suspension,
36 continue the suspension in effect, or revoke the certificate or
37 permit. The commission may revoke the certificate or permit of
38 any carrier suspended pursuant to subdivision (a) at any time 90
39 days or more after its suspension if the commission has not
40 received a written recommendation for reinstatement from the

1 department and the carrier has not filed a written request for a
2 hearing with the commission.

3 (e) If the commission, after a hearing, finds that a charter-party
4 carrier has continued to operate as such a carrier after its certificate
5 or permit has been suspended pursuant to subdivision (a), the
6 commission shall do one of the following:

7 (1) Revoke the operating certificate or permit of the carrier.

8 (2) Impose upon the holder of the certificate or permit a civil
9 penalty of not less than one thousand five hundred dollars (\$1,500)
10 nor more than seven thousand ~~dollars (\$7,000)~~ *five hundred dollars*
11 *(\$7,500)* for each day of unlawful operations.

12 SEC. 3. Section 5411 of the Public Utilities Code is amended
13 to read:

14 5411. Every charter-party carrier of passengers and every
15 officer, director, agent, or employee of any charter-party carrier
16 of passengers who violates or who fails to comply with, or who
17 procures, aids, or abets any violation by any charter-party carrier
18 of passengers of any provision of this chapter, or who fails to obey,
19 observe, or comply with any order, decision, rule, regulation,
20 direction, demand, or requirement of the commission, or of any
21 operating permit or certificate issued to any charter-party carrier
22 of passengers, or who procures, aids, or abets any charter-party
23 carrier of passengers in its failure to obey, observe, or comply with
24 any such order, decision, rule, regulation, direction, demand,
25 requirement, or operating permit or certificate, is guilty of a
26 misdemeanor and is punishable by fine of not less than one
27 thousand dollars (\$1,000) and not more than five thousand dollars
28 (\$5,000) or by imprisonment in the county jail for not more than
29 three months, or both.

30 SEC. 4. Section 5411.3 of the Public Utilities Code is amended
31 to read:

32 5411.3. Every charter-party carrier of passengers, and every
33 officer, director, agent, or employee of a charter-party carrier of
34 passengers, who displays on any vehicle any identifying symbol
35 other than one prescribed by the commission pursuant to Section
36 5385, or who fails to remove an identifying symbol when required
37 by the commission, is guilty of a misdemeanor and is punishable
38 by a fine of not more than ~~five thousand dollars (\$5,000)~~ *two*
39 *thousand five hundred dollars (\$2,500)*, by imprisonment in the
40 county jail for not more than one year, or by both.

1 SEC. 5. Section 5412 of the Public Utilities Code is amended
2 to read:

3 5412. Every corporation or person other than a charter-party
4 carrier of passengers, who knowingly and willfully, either
5 individually, or acting as an officer, agent, or employee of a
6 corporation, copartnership, or any other person other than a
7 charter-party carrier of passengers, violates any provision of this
8 chapter or fails to observe, obey, or comply with any order,
9 decision, rule, regulation, direction, demand, or requirement of
10 the commission, or who procures, aids, or abets any charter-party
11 carrier of passengers in its violation of this chapter, or in its failure
12 to obey, observe, or comply with any such order, decision, rule,
13 regulation, direction, demand, or requirement, is guilty of a
14 misdemeanor, and is punishable by a fine of not more than ~~five~~
15 ~~thousand dollars (\$5,000)~~ *two thousand dollars (\$2,000)* or by
16 imprisonment in the county jail for not more than three months,
17 or both.

18 SEC. 6. Section 5412.2 of the Public Utilities Code is amended
19 to read:

20 ~~5412.2. (a) When a person is convicted of the offense of~~
21 ~~operating a charter-party carrier of passengers or a taxicab without~~
22 ~~a valid certificate or permit, in addition to any other penalties~~
23 ~~provided by law, if the court determines the operator has the ability~~
24 ~~to pay, the court shall impose a mandatory fine not less than one~~
25 ~~thousand five hundred dollars (\$1,500) nor more than five thousand~~
26 ~~dollars (\$5,000) for a first conviction or one hundred thousand~~
27 ~~dollars (\$100,000) for a subsequent conviction.~~

28 *5412.2. (a) When a person is convicted of the offense of*
29 *operating a taxicab without a valid certificate or permit, in addition*
30 *to any other penalties provided by law, if the court determines the*
31 *operator has the ability to pay, the court shall impose a mandatory*
32 *fine not exceeding two thousand five hundred dollars (\$2,500) for*
33 *a first conviction or five thousand dollars (\$5,000) for a subsequent*
34 *conviction.*

35 *(b) When a person is convicted of the offense of operating a*
36 *charter-party carrier of passengers without a valid certificate or*
37 *permit, in addition to any other penalties provided by law, if the*
38 *court determines the operator has the ability to pay, the court shall*
39 *impose a mandatory fine not exceeding ten thousand dollars*

1 (\$10,000) for a first conviction or twenty-five thousand dollars
2 (\$25,000) for a subsequent conviction.

3 (b)

4 (c) As used in this section, "taxicab" means a passenger vehicle
5 designed for carrying not more than eight persons, excluding the
6 driver, and used to carry passengers for hire. "Taxicab" shall not
7 include a charter-party carrier of passengers within the meaning
8 of the ~~Passenger Charter-Party Carriers' Act, Chapter 8~~
9 ~~(commencing with Section 5351)~~ of this chapter.

10 SEC. 7. Section 5413 of the Public Utilities Code is amended
11 to read:

12 5413. Every charter-party carrier of passengers and every
13 officer, director, agent, or employee of any charter-party carrier
14 of passengers who violates or who fails to comply with, or who
15 procures, aids, or abets, any violation by any charter-party carrier
16 of passengers of any provision of this chapter, or who fails to obey,
17 observe, or comply with any order, decision, rule, regulation,
18 direction, demand, or requirement of the commission, or of any
19 operating permit or certificate issued to any charter-party carrier
20 of passengers, or who procures, aids, or abets any charter-party
21 carrier of passengers in its failure to obey, observe, or comply with
22 any such order, decision, rule, regulation, direction, demand,
23 requirement, or operating permit, or certificate, is subject to a
24 penalty of not more than two thousand dollars (\$2,000) for each
25 offense.

26 SEC. 8. Section 5413.5 of the Public Utilities Code is amended
27 to read:

28 5413.5. (a) Whenever the commission, after hearing, finds
29 that any person or corporation is operating as a charter-party carrier
30 of passengers, including a charter-party carrier operating a
31 limousine, without a valid certificate or permit, or fails to include
32 in any written or oral advertisement the number of the certificate
33 or permit required by Section 5386, the commission may impose
34 a fine of not more than seven thousand five hundred dollars
35 (\$7,500) for each violation. The commission may assess the person
36 or corporation an amount sufficient to cover the reasonable expense
37 of investigation incurred by the commission. The commission may
38 assess interest on any fine or assessment imposed, to commence
39 on the day the payment of the fine or assessment becomes

1 delinquent. All fines, assessments, and interest collected shall be
2 deposited at least once each month in the General Fund.

3 (b) Whenever the commission, after hearing, finds that any
4 person or corporation is operating a charter-party carrier of
5 passengers as a taxicab without a valid certificate or permit in
6 violation of an ordinance or resolution of a city, county, or city
7 and county, the commission may impose a fine of not more than
8 ~~seven thousand five hundred dollars (\$7,500)~~ *five thousand dollars*
9 *(\$5,000)* for each violation. The commission may assess the person
10 or corporation an amount sufficient to cover the reasonable expense
11 of investigation incurred by the commission. The commission may
12 assess interest on any fine or assessment imposed, to commence
13 on the day the payment of the fine or assessment becomes
14 delinquent. All fines, assessments, and interest collected shall be
15 deposited at least once each month in the General Fund.

16 SEC. 9. Section 5414 of the Public Utilities Code is amended
17 to read:

18 5414. Every corporation or person other than a charter-party
19 carrier of passengers who knowingly and willfully, either
20 individually, or acting as an officer, agent, or employee of a
21 corporation, copartnership, or any other person other than a
22 charter-party carrier of passengers, violates any provision of this
23 chapter or fails to observe, obey, or comply with any order,
24 decision, rule, regulation, direction, demand, or requirement of
25 the commission, or who procures, aids, or abets any charter-party
26 carrier of passengers in its violation of this chapter, or in its failure
27 to obey, observe, or comply with any such order, decision, rule,
28 regulation, direction, demand, or requirement, is subject to a
29 penalty of not more than two thousand dollars (\$2,000) for each
30 offense.